



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------------|---------------------|------------------|
| 10/031,086 | 01/16/2002 | Geoffry James Wolfe Taylor | 017264-0113 | 6084 |

22428 7590 06/18/2004

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

| |
|----------|
| EXAMINER |
|----------|

BRAHAN, THOMAS J

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3652

DATE MAILED: 06/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/031,086

Applicant(s)

TAYLOR ET AL.

Examiner

Thomas J. Brahan

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 23 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 23 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 3652

1. The proposed drawing corrections filed March 25, 2004 have not been approved as they introduce new matter into the disclosure. The original disclosure did not specify the locations of the screen and the outlet, as included in the proposed corrections. The drawings are objected to under 37 CFR 1.83(a) as not showing every feature of the invention specified in the claims. As specifying any location for these now would be introducing new matter, the features should be indicated in the drawings schematically with labeled boxes. The amendments made to the specification must also be corrected.

2. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-7, 12, 23 and 24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed. The original disclosure did not identify a location for the screens in the receptacle. To recite that the screen is in a lower section of the receptacle, as recited claim 1, line 8, is introducing new matter. To recite that the screen divides the receptacle into upper and lower sections, as recited in claim 12 is also introducing new matter.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

Art Unit: 3652

6. Claims 1-5 and 24 are rejected under 35 U.S.C. § 102(b) as being anticipated by Taylor et al (AU 35291). Taylor et al shows an apparatus for handling grape material including:

- a support structure (5);

- a receptacle (3) for containing grape material the receptacle comprising:

- a top opening at one end of the receptacle (when the receptacle is in the raised position shown in figures 3 and 4; note that the top opening spans most of the longer side of the receptacle and extends to the upper end);

- a lower outlet at a lower end of the receptacle (when in the position of figures 3 and 4; see page 3, line 16 and line 19 for a disclosure of two outlets);

- a screen in a lower section of the receptacle (see page 3, line 17);

- wherein the receptacle is rotated about a pivot connection (9) with respect to the support structure; and

- an actuator (6) for rotating the receptacle in a controlled manner from an upright position in which a grape fluid may be contained in the receptacle to a tipped position in which the contents of the receptacle may be emptied via the top opening.

The supporting lattice work of the receptacle is an integral collar, as recited in claim 2. The actuators are a pair of hydraulic cylinders, as recited in claims 3-5. The embodiment of figure 4 has the receptacle tapering toward the top opening, as recited in claim 24.

7. Claims 1-3, 6-10 and 23 are rejected under 35 U.S.C. § 102(b) as being anticipated by Wettlaufer. Wettlaufer shows an apparatus for handling grape material including:

- a support structure (12);

- a receptacle (152) for containing grape material the receptacle comprising:

- a top opening at one end of the receptacle;

- a lower outlet (see column 8, lines 7-11);

- a screen (104) in a lower section of the receptacle;

- wherein the receptacle is rotated about a pivot connection (44) with respect to the support structure; and

- an actuator (212) for rotating the receptacle in a controlled manner from an upright position in which a grape fluid may be contained in the receptacle to a tipped position in which the contents of the receptacle may be emptied via the top opening.

Collars support the filters (104) as recited in claim 2. The actuator is hydraulic, as recited in claim 3. Each filter bag (104) can be considered as a separate open top receptacle, as recited in claim 6, with pairs of receptacles opposing each other, as recited in claim 7. The method of use is as recited in claim 8. Tilting the receptacles to empty them is considered as being down in a controlled manner, as recited in claim 9. As the press platens (42 and 54) move together engaging the filter bags, the filter bags sequentially supply grape material to the

Art Unit: 3652

lower collector means (176), as recited in claim 10. The filter bags empty from the bottom as to have their outlets below the screens, as recited in claim 23.

8. Claims 1-5 are rejected under 35 U.S.C. § 102(b) as being anticipated by McClain et al. McClain et al shows an apparatus comprising a support structure (11), a receptacle (31) having a top opening and a lower outlet with a screen (36), wherein the receptacle is rotated about a pivot connection (32) by actuators (33) to empty any contents remaining in the receptacle via the top opening. The intended use for the apparatus, is not given any patentable weight, as McClain et al has all of the structural limitations recited in the claim. The bracing for the receptacle forms a collar, as recited in claim 2. The actuators are a pair of hydraulic rams attached to the collar, as recited in claims 3-5.

9. Claims 6 and 7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor et al in view of McKenzie et al or Kataoka. Taylor et al shows the basic claimed receival hopper for grape material as detailed above. It varies from claims 6 and 7 by not disclosing using a pair of hoppers to feed a conveyor located between the hoppers. However using plural hoppers to feed a single conveyor is well known in the art. Figure 1 of McKenzie et al shows four hoppers (207) feeding a single conveyor (211). Figures 2 and 3 of Kataoka show ten hoppers (27) feeding a single conveyor (29). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a plurality of the hoppers of Taylor et al together, to feed a single conveyor, to supply a constant feed rate to the conveyor, as taught by McKenzie et al or by Kataoka.

10. Claims 8, 9, 11 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor et al. Taylor et al shows the basic claimed apparatus for handling grape material including as discussed above, it varies from claim 8 by not specifying that the remaining grape material which doesn't pass through the screen and auger, is removed through the top opening. However as the top opening of Taylor et al is large and easy to access, using this opening would have been the obvious method of removing the excess material. The tilting of the bin is in a controlled manner, as recited in claim 9. The receiving receptacle is a press, as recited in claim 11. The screen is at the auger, to divide the receptacle into an upper section and a lower section, as recited in claim 12.

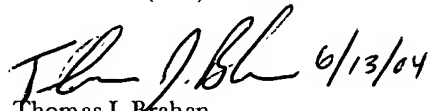
11. Claim 10 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor et al, as applied above to claim 8, in view of Kataoka. Taylor et al shows the basic claimed method of processing grape material as detailed above. It varies from claim 10 by not disclosing using a pair of hoppers to feed a conveyor located between the hoppers. Figures 2 and 3 of Kataoka show ten hoppers (27) feeding a single conveyor (29). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a plurality of the hoppers of Taylor et al together, to feed a single conveyor, to supply a constant feed rate to the conveyor, as taught by Kataoka.

Art Unit: 3652

12. Applicant argues in the amendment filed March 25, 2004 that the "instant invention eliminates the auger recited in Taylor" and that "Taylor does not teach or suggest providing a screen in a lower section of the receptacle". However the elimination of the auger is not recited in the claims, and Taylor does disclose a screen at the auger, which, at times, is in a lower section of the receptacle. Furthermore, the disclosure of the instant invention did not specify a location for the internal screen, see the last six lines of page six, as to have the specification lacking a clear teaching of a screen in the lower section of the receptacle. Applicant's remaining remarks in the amendment have been considered, but are deemed moot in view of the above new rejections. The amendment necessitated the new grounds of rejection presented in this Office action, accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

13. An inquiry concerning this communication should be directed to Thomas J. Brahan at telephone number (703) 308-2568. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (703) 308-3248. The fax number for all patent applications is (703) 872-9306.


Thomas J. Brahan
Primary Examiner
Art Unit 3652